

MINUTES  
HAMILTON COUNTY BOARD OF COMMISSIONERS  
DECEMBER 20, 2010  
Commissioners Courtroom  
Hamilton County Government and Judicial Center  
One Hamilton County Square  
Noblesville, Indiana

The Hamilton County Board of Commissioners met in Executive Session in Conference Room 1A at 10:05 a.m. President Dillinger called the public session to order at 10:30 a.m. declaring a quorum present of Commissioner Christine Altman, Commissioner Steven C. Dillinger and Commissioner Steven A. Holt. Dillinger led the Pledge of Allegiance.

**MINUTES**

**Approval of Minutes**

Altman moved to approve the minutes of November 22, 2010. Holt seconded. Motion carried unanimously.

**EXECUTIVE SESSION MEMORANDA**

**Approval of Executive Session Memoranda**

Holt moved to approve the Executive Session Memoranda of December 20, 2010. Altman seconded. Motion carried unanimously.

**COMMISSIONER COMMITTEE REPORTS**

**Transit**

Altman reported that the ICE (Indianapolis Commuter Express) bus service from Fishers and Carmel to downtown Indianapolis has been funded by grants through June of next year. In the interim the operator, Miller Transport, is working with CIRT A (Central Indiana Regional Transportation Authority) and has agreed to continue the service from the beginning of 2011 until CIRT A can prepare the RFP's (Requests for Proposals) for the new grant money. The runs will be reduced from Carmel and Fishers and the rate per ride will be increased in the interim. This will be a good test of the project. Altman thanked Miller Transport on their work to keep the service operating and reported that the City of Carmel is paying the costs of the Park and Ride area and the Town of Fishers worked with Kite Development whom is donating a parking lot.

**SHERIFF**

Sheriff Carter thanked the Commissioners; this is his last meeting as Hamilton County Sheriff. He is very grateful that we have accomplished a great deal but there is more to do. The agency will be in good hands and he appreciates the experience and the time.

**DIRECTOR OF ADMINISTRATION**

**Property Tax Software Project**

The Commissioners recognized the employee group that worked on the new Property Tax (ProperTax) Software. Mr. Chris Mertens stated this was a four year process and the project management of Julie Crask to keep this project on time and on budget has been amazing. Phase I Certification was met in November 2010 with Phase II Certification beginning in January 2011. Ms. Julie Crask introduced the following employees:

Auditor's Staff – Melissa Dashiell, Sheri Jobes, Lee Graham, Cindy Owens, Bonnie Schwemmin,  
Linda Westrich

Assessor's Staff – Jerolyn Ogle, Robin Ward, Kim Powell, Robin Eckhart

Treasurer's Staff – Kim Good, Jennifer Templeton

Surveyor's Staff – Kent Ward, Janet Hansen

ISSD – Phyllis Williams, Tony Baccam, Bill Huston

Ms. Robin Mills stated that without the Board of Commissioners and County Council this would not have happened. Mills reported that she sent an e-mail to all the State Legislators informing them that in 18 years Hamilton County has not had Settlement done by the middle of December and due to the new software, 2010 was the first year Settlement was done by the middle of December.

**Release of Retainage**

JDH Contracting

Holt moved to release the retainage for JDH Contracting in the amount of \$4,869.13 for their work on the Radio Tower project. Altman seconded. Motion carried unanimously.

Comfort Systems USA

JLCF of Indianapolis

Holt moved to release the retainage for Comfort Systems USA in the amount of \$3,020.00 for their work on the radio tower project and JLCF of Indianapolis in the amount of \$20,350.95 for their work on Phase III of the Jail complex. Altman seconded. Motion carried unanimously.

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Fishers Wage Determination Committee Appointment

Holt moved to appoint Brent Cashman to the Town of Fishers Wage Determination Committee to be held December 28, 2010. Altman seconded. Motion carried unanimously.

Warning Stickers

Stevens reported that Dan Papineau has requested permission to put ice/snow warning stickers on some of the Judicial Center doors; as an alternative the Buildings & Grounds Department is looking at signs or stickers that can be attached to the “Wet Floor” portable signs. The stickers on windows and doors would be temporary; the signs on the portable signs would be permanent. Altman stated it would seem if the warning was kept up all the time it would lose its emphasis. Holt asked if there was an issue other than Dan Papineau requesting that this be done? Dillinger stated he assumed it would have come from the Insurance Committee or our insurance companies. Holt moved to table. Altman stated it is important but is not something that should be permanent. Altman seconded the tabling motion. Motion to table carried unanimously.

Copy Paper Procedure

Stevens presented the copy paper procedure for review. The same process for ordering paper would remain in place with the current departments that order from vendors (Clerk, Health, Probation and Sheriff), they will contact Buildings & Grounds Department electronically to order paper. There should not be any claims submitted to the Auditor for purchase of copy paper, the annual supply of paper has been purchased. Paper will be delivered Monday, Wednesday and Fridays by the Buildings & Grounds staff. This is estimated to save 30% over last year. Holt moved to approve. Altman seconded. Motion carried unanimously.

AT&T Radio Tower Lease Proposal

Mr. Matt Price stated he is an Attorney with Bingham, McHale representing AT&T locally. Price reported he has been working with Mr. Howard to arrive at terms on a lease of space on the current (Cumberland Road) radio tower for AT&T. The present lease has an annual rent of \$7,000 expiring in 2021. There is no provision for termination or relocation expenses therefore the County pays to be relocated from the old tower before 2021 at an estimated cost of \$230,000. The proposed lease is an annual rent of \$14,040 plus 3% per year increase (15% at each 5 year renewal) for a term of 5 years with 4-5 year extensions. AT&T will pay all expenses of relocation to the new tower. AT&T may remain at the present location for a minimum of one year with six months notice required for moving. If there is a need for future relocations from the new tower, the County pays relocation if it terminates during the first three terms (15 years). If the County terminates in 16-19 years, the County pays 70% of expenses; if the County terminates in 19-22 years the County pays 50% of expenses; and if the County terminates in 22-25 years the County pays 30% of expenses. AT&T will need authority to add additional equipment to the old tower immediately. Price stated it is important for AT&T to start on this work right away for some local network and capital allocation purposes.

Altman stated we find it ironic that AT&T wants to put their equipment on our new 911 Tower when your lobbyist and your company have been so difficult to work with, in fact obstructionists at the Statehouse, in attempting to equalize cell phone rates with land line rates. Altman stated she has testified personally and the Sheriff has testified personally on numerous occasions that our 911 tower is not going to be helpful or effective when we can ‘t afford to run dispatch, buy equipment and buy your lines, especially with property tax caps, etc. We find it very ironic that when you tell us how important it is for the private sector to locate on our public sector tower that you are not willing to support. Price replied that he can assure Commissioner Altman that having heard this from her that he will make sure that is communicated to others within the company, that they understand the disconnect between the private sector needs and public sector needs; both of which are legitimate, both of which need to be addressed in a fair manner. Altman stated we fail to see your activity at the Statehouse as even being appropriate since you are merely a vendor.

Altman stated our attorney has presented your terms, where she appreciates the rate increase, we do not think you are close to market; we would start at \$2,000 per month, which would be \$24,000 per year as an initial rate. We propose a greater of 3% or market increase each year and the renewal time, whichever is greater, not less than the current rate. We need to negotiate every time you want to install equipment on the tower or additional load on that tower and we would need to approve the initial placement to make sure we are structured appropriately. If you can give us an initial not to exceed then we will be comfortable going through with that. Price clarified – the additional load is talking about the new tower? Howard replied yes, the second location would be on the new tower, the initial location would follow the guidelines you have seen. Howard stated he believes the lease should begin January 1, 2011 and segway from the old to the new. They will stay on the old one for at least one year with 180 days notice. Price stated they are trying to provide the flexibility for the County to be able to determine when we need to be off the existing tower. It is not atypical that if the carrier wants to add equipment that at that time there is amendment to the lease and it is evaluated at that time and maybe at that time the economics of the situation change. The 3% increase or some other objective measure of market seems entirely reasonable. On the monthly or annual rental amount of \$24,000, the proposed amount of \$14,040 was calculated by comparing another location that was similar to the current location and the lease terms we have will prescribe either party from talking about the specific location but it is an existing tower structure along a busy thoroughfare in a likewise sophisticated jurisdiction meaning that another replacement site could be built without many approvals. That site is at an annual rate of just under \$12,000; Price stated he looked at the existing license agreement of \$7,000 per year and doubled that number. Altman stated she can not believe that going up to \$24,000 would bankrupt AT&T and we fully recognize that you do public service by providing coverage in the area otherwise it might have been steeper. Price replied that her point is well taken; of the 12 sites in Hamilton County there is only one site that has a tower rental that is within \$2,000 of that figure, there are only two (2) sites that are at \$20,000 or above and that is about double what the market rate is for the county. The term that has been used has been market rate and that is

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twice the market rate. Altman stated it is still relative; we have the tallest tower in the County. You are welcome to stay at the current tower for the rest of the lease, it is up to you. Price stated this is a different term than they discussed and requested a sidebar with his client.

**AT&T Lease Continued** [11:11:29]

Price reported his client has accepted all of Commissioner Altman's proposals except for the rent; Price discussed this with his client and is prepared to accept that proposal as well (\$2,000 per month). Price confirmed that this is effective January 1, 2011, we will not be paying double rent; we will be paying rent on one site? Howard replied yes, the lease will be seamless and will move whenever it happens. Howard stated the motion would be to approve the AT&T proposal as in writing with the additional items discussed today. Price stated that includes the ability to mobilize? Howard replied right. Howard stated he and Mr. Price are instructed to reduce this to writing and have it before the Commissioners on January 10, 2011? Price agreed. Altman so moved. Holt seconded. Motion carried unanimously.

Altman asked that Price carry this message back to the AT&T lobbyist, it is ludicrous; we will have to shut down 911 unless we find alternate sources. Price replied he has discussed this with Mr. Jeff Kellerman from AT&T and this message will be carried back. Altman stated land lines are going away and those with land lines are getting charged huge fees when we could equalize and make it more equitable for everyone.

Dillinger recessed the meeting to convene the meeting of the Hamilton County Solid Waste Board. [10:47:44]

Dillinger called the Commissioners meeting back to order. [10:56:57]

**ATTORNEY**

**Carmel Interlocal Agreement – Drainage Board**

Howard requested approval of the Interlocal Cooperation Agreement between the City of Carmel and Hamilton County, acting by and through its Drainage Board. The agreement was been approved by the Hamilton County Drainage Board on November 8, 2010 but has not formally been approved by the Board of Commissioners. The agreement is for improvement to the drainage facilities for the Bridlebourne/Larkspur Subdivision. Holt moved to approve. Altman seconded. Motion carried unanimously.

**Ordinance 07-12-10-B, Amending Personnel Policy**

Mr. Mike Howard requested approval of Ordinance 07-12-10-B, as Amended, An Ordinance of the Board of Commissioners of Hamilton County and the Hamilton County Council Concerning an Amendment to the Personnel Policy for Hamilton County, Indiana. Sections 1.6.1b concerning Post-accident testing, Section 3.2.9 concerning On-Call Time, Section 3.11 concerning Overtime and Section 3.11.1 concerning Compensatory Time. Holt moved to approve the amendments. Altman seconded. Howard stated under the FSLA (Fair Standard Labor Act) if an employee is on-call and must respond if called then that employee, whether called in or not, gets an additional two (2) hours compensation or mandatory on-call time. The second on-call provision is that the employee is on a list and if they are called they may come in but do not have to come in, the theory being the mandatory on-call they must remain drug/alcohol free, must get to work within a reasonable amount of time and have a cell phone or pager available. The second on-call provision is if the employee is not on mandatory on-call and is not available and they call the next person in line. The employee is paid for overtime but is not paid for restricting their private life because of mandatory on-time. Holt asked who does this apply to? Howard replied the highway staff. Holt asked if it applies to the people on the monthly list (ex: Foremen)? Mr. Brad Davis replied the Foreman or designated person on-call for emergencies, the two hours applies to them as it is now. When talking about on-call people that have the right to not come in, it could be a problem because we tell the drivers that they need to be subject to coming in for snow removal when they are called and they don't get paid the two hours. If they don't come in and we try to call them in, we have disciplined people for not responding to our call. Howard stated it is not problematic under FSLA it is problematic under your operations. If you mandate them to come in then you compensate them two (2) hours per week. Davis stated it seems odd that we have highway department employees that are truck drivers and we can't mandate that we can't make them to come in for snow removal. Holt replied he (Howard) is not saying that. Howard stated you get to pay them two (2) additional hours per week; you may want to have your mandatory on-call from December 20<sup>th</sup> to February 15<sup>th</sup> unless you amend it, but that is the law. If we have a Labor Board review we will have to compensate them, pay interest and pay penalties. Altman asked if we can add that they go through the on-call list but once the employee has refused or not able to come in they go off the list and perhaps are terminated from employment. It is more complicated for the highway department; we don't want the employee operating machinery with drugs or alcohol, it is a restriction. Dillinger and Holt stated they don't have a grievance with paying them the two (2) hours the bigger challenge is who is going to be on the list. Davis stated theoretically it is all of the drivers. Howard stated you don't want them on the list 52 weeks a year. Holt stated if it is going to cost you two (2) hours per week then maybe Davis needs to drill down the list; it is not fair to tell everybody that they can not consume alcohol because they may be called in; they should be compensated for that. Dillinger agreed and asked if it could be implemented on a weekly basis based on the weather forecast? Howard stated there is nothing in the law about that but as long as that is posted and known in advance, for example a policy would be established that by Friday noon the next seven calendar days would be mandatory on-call or non-mandatory. Howard stated we need to work on an upgraded policy. Dillinger asked Davis to come to the next meeting with a recommendation that will fit their situation.

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Holt asked if the Sheriff has everybody on the on-call list? Sheriff Carter replied not everybody and asked if the second category is entitled to compensation? Howard replied yes, any time an employee works they get paid. Howard stated if the employee is on the non-compulsory call list they will not be compensated. Carter stated that narrows it down. Holt asked if the highway department has a mandatory on-call for everyone and someone is out of town there is no penalty? Carter replied no. Holt asked if there is a mandatory on-call and an employee responds they just go home from their wife's 40<sup>th</sup> birthday party, there is no penalty for not coming in? Carter replied no. Howard stated if you have the authority to take disciplinary action against an employee for refusing for coming in then it is deemed a compulsory call list and they are compensated. Holt asked what about the Surveyor's office with the employees on the spill list, are they being compensated the two (2) hours? Howard did not know. Holt stated we need to discuss this with any department that uses on-call. Howard stated the exempt employees receive EBT (Excess Benefit Time). Altman asked if the public safety employees are exempt? Howard replied no, exempt is whether they are paid hourly or not. Holt asked if Sheena Randall needs to make sure we are covering every department? Altman and Dillinger agreed. Motion to approve the Ordinance amendments approved unanimously. Holt moved to approve Ordinance 07-12-10-B as amended. Altman seconded. Motion carried unanimously.

**Snow Emergency Ordinance**

Howard reported the Snow Emergency Ordinance has been revised and Mr. Bice was to contact him. Altman stated revisions were attached to what was presented at the last meeting. Howard recommended a verbal approval as revised at the last meeting with approval of the written Ordinance at the next meeting. Altman stated the Draft Ordinance has not been reviewed by the Attorney. Holt stated his only grievance is that you can not ride a snow mobile on the road unless you are an emergency responder. Dillinger and Altman agreed.

**Liability Trust Claims**

Altman moved to approve the Liability Trust Claim payable to Riverview Hospital in the amount of \$65.00 for an employee drug test. Holt seconded. Motion carried unanimously.

Altman moved to approve the Liability Trust Claim payable to Krieg, Devault, LLP in the amount of \$375.00 for professional services in regards to personnel. Holt seconded. Motion carried unanimously.

**HIGHWAY DEPARTMENT**

**Pavement Association Awards**

Davis presented the Commissioners with the plaque awarded to Hamilton County and the City of Noblesville from the Indiana Pavement Association for pavement quality control.

**Timber Bridge Bid Prices for 2011**

Davis reported American Timber Bridge has requested their bid prices be renewed for 2011. They did not submit anything in writing but he will have a letter for the Commissioners signature at the next meeting. They are the only vendor and the prices are the same as in 2010. Holt so moved. Altman seconded. Motion carried unanimously.

**AUDITOR**

**Clerk's Monthly Report**

Holt moved to approve the Monthly Report of the Clerk of the Circuit Court dated November 30, 2010. Altman seconded. Motion carried unanimously.

**Vendor Claims**

Coverdale requested approval of Vendor Claims to be paid December 27, 2010. There are three (3) claims Coverdale did not sign; for the Prosecutor's White Hat Awards. Coverdale stated the Prosecutor is using the IV-D Fund and that money is about gone. Holt moved to approve Vendor Claims to be paid December 27, 2010. Dillinger seconded. Dillinger and Holt approved. Altman opposed. Motion carried.

**Commissioner Minutes**

Mr. Dan Stevens asked when the Commissioners would like to send the State Legislators the Commissioner meeting minutes and how should they be distributed, E-mail or hard copies? Altman replied by E-mail beginning with today's meeting.

Altman moved to adjourn the meeting. Holt seconded. Motion carried unanimously.

**Commissioner Correspondence**

Department of Natural Resources "Finding of No Historic Properties Affected"  
Rehabilitation of 1071 E. 236<sup>th</sup> Street – Sheridan  
IDEM Notice of New Source Construction & Minor Source Operating Permit  
Schafer Powder Coating, Inc. – Carmel

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**Present**  
Christine Altman, Commissioner  
Steven C. Dillinger, Commissioner  
Steven A. Holt, Commissioner  
Dawn Coverdale, Auditor  
Dan Stevens, Director of Administration  
Jennifer Pickett, Administrative Assistant Clerk  
Michael Howard, Attorney  
Doug Carter, Sheriff  
Brad Davis, Highway Director  
David Bice, EMA  
Judy Levine, County Council  
Robin M. Mills, Chief Deputy Auditor  
Matt Price, Bingham, McHale for AT&T  
Jeff Kellerman, AT&T  
Jennifer Templeton, Treasurer’s Office  
Kim Good, Treasurer  
Scott Small, Boy Scout Troop 132  
Cindy Small  
Floyd Burroughs, FEBA  
Phyllis Williams, ISSD  
Tony Baccam, ISSD  
Julie Crask, ISSD  
Chris Mertens, ISSD  
Lee Graham, Auditor’s Office  
Kim Powell, Assessor’s Office  
Cindy Owens, Auditor’s Office  
Sheri Jobes, Auditor’s Office  
Bonnie Schwemmin, Auditor’s Office  
Linda Westrich, Auditor’s Office  
Melissa Dashiell, Auditor’s Office  
Jerolyn Ogle, Assessor’s Office  
Robin Eckhart, Assessor’s Office  
Robin Ward, Assessor’s Office  
Kent Ward, Surveyor  
Janet Hansen, Surveyor’s Office  
Mike Colby, Town of Fishers

APPROVED  
HAMILTON COUNTY BOARD OF COMMISSIONERS

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ATTEST

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Dawn Coverdale, Auditor

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